



**PROGRAM MATERIALS**

**Program #30252**

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## **Technology and the Evolution of the Lawyer/Client Relationship**

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# **TECHNOLOGY AND THE EVOLVING RELATIONSHIP BETWEEN LAW DEPARTMENTS AND OUTSIDE COUNSEL**

Valerie Pennacchio, Esq., CIPP-US

## TECHNOLOGY AND THE EVOLVING RELATIONSHIP BETWEEN LAW DEPARTMENTS AND OUTSIDE COUNSEL



TECHNOLOGICAL INNOVATIONS MOST  
LIKELY TO SUPPORT DISRUPTION IN THE  
LEGAL SERVICES INDUSTRY

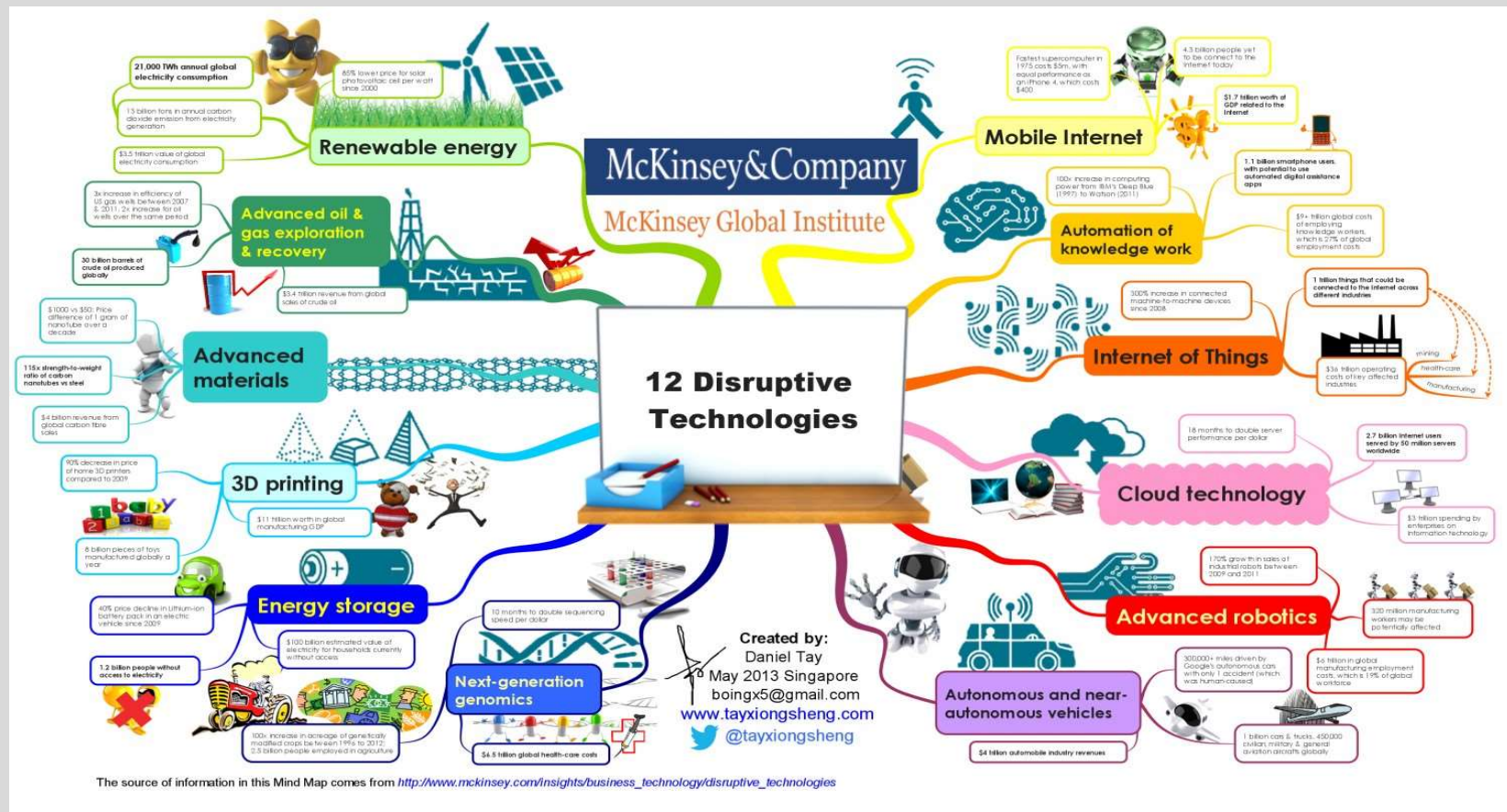


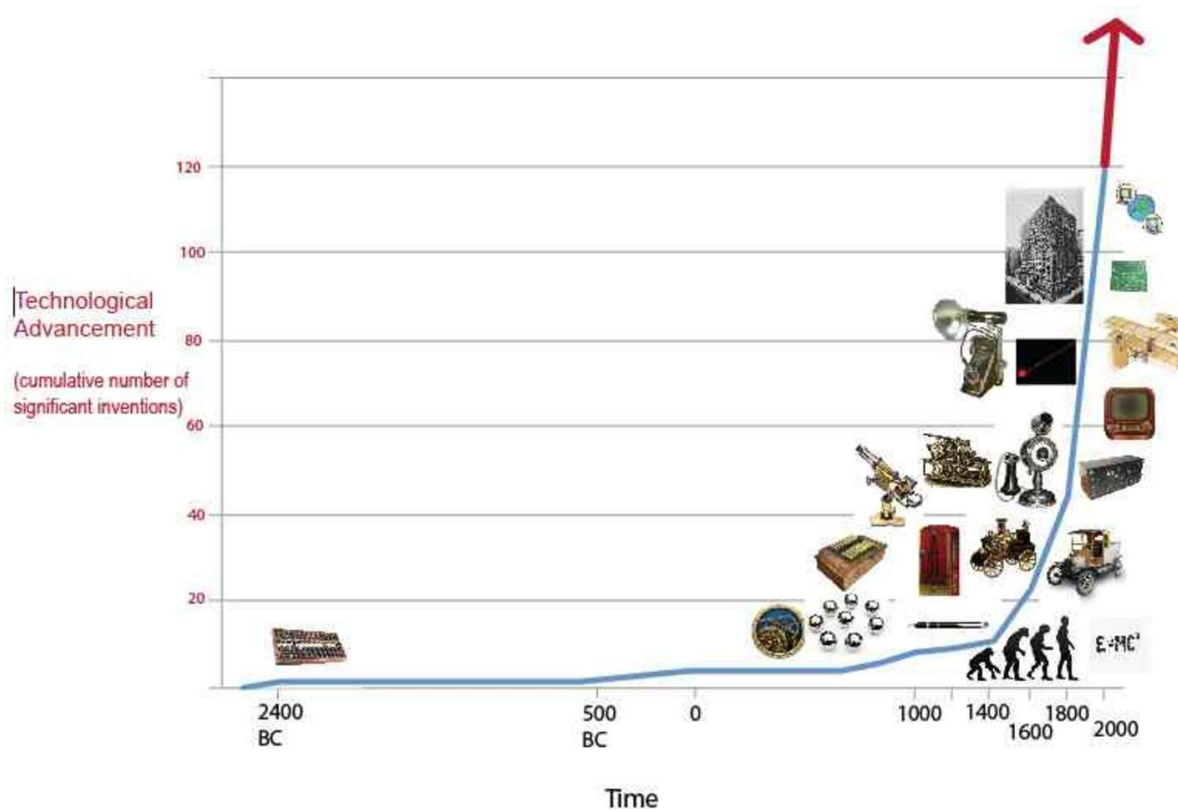
HOW EMERGING TECHNOLOGY IS  
BEING USED IN THE LEGAL INDUSTRY



THE IMPACT OF TECHNOLOGY ON THE  
RELATIONSHIP BETWEEN LAW  
DEPARTMENTS AND OUTSIDE COUNSEL.

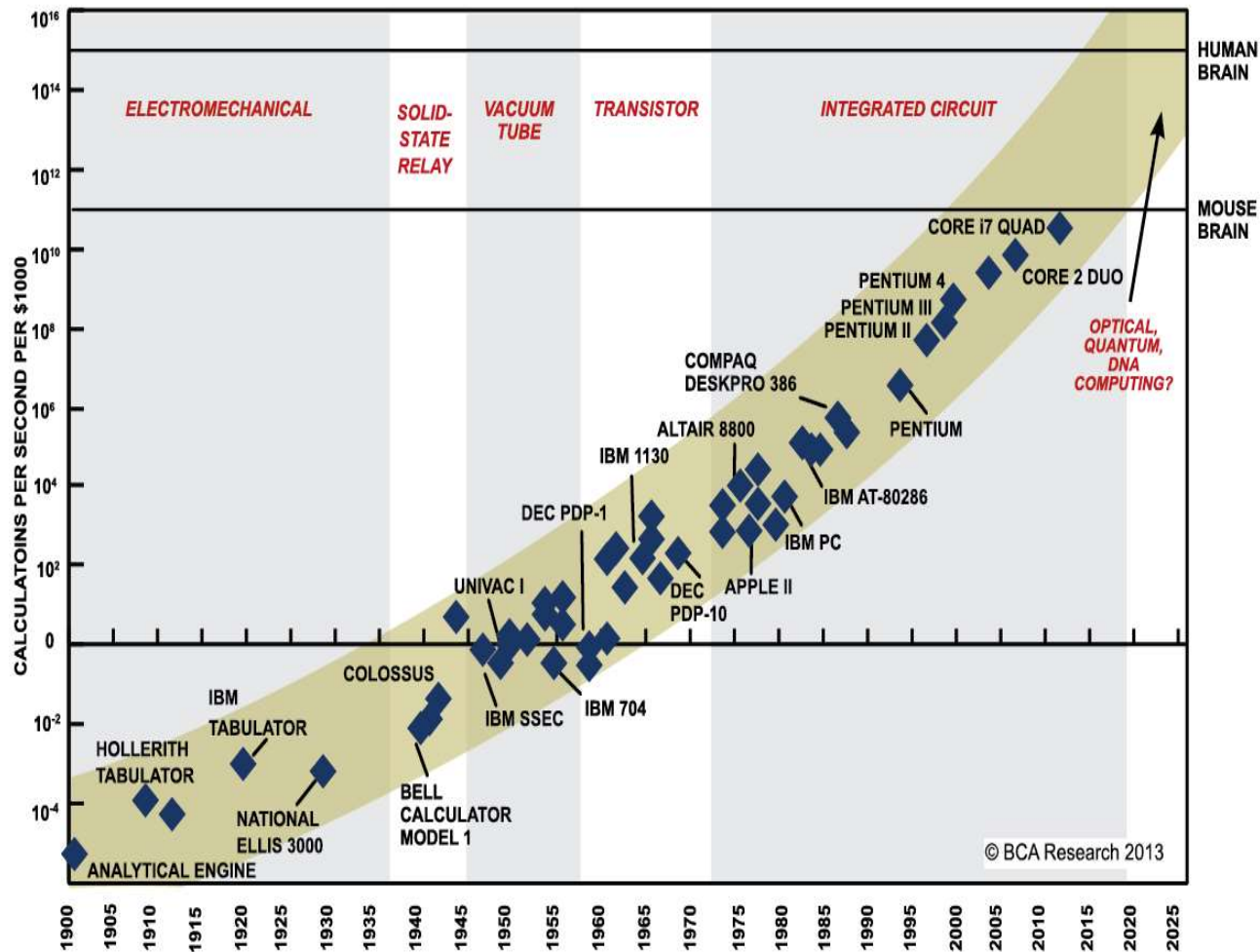
# ACCELERATION OF INNOVATION





## Law of Accelerated Returns

- Term first coined by futurist Ray Kurzweil in 1999
- The pace of technological progress—especially information technology—speeds up exponentially over time because there is a common force driving it forward.



SOURCE: RAY KURZWEIL, "THE SINGULARITY IS NEAR: WHEN HUMANS TRANSCEND BIOLOGY", P.67, THE VIKING PRESS, 2006. DATAPPOINTS BETWEEN 2000 AND 2012 REPRESENT BCA ESTIMATES.

# Moore's Law

An observation that computer processing power doubles every two years.

# Moore's Law in Action

Y1- 1

Y3- 2

Y5- 4

Y7- 8

Y9- 16

Y11- 32

Y13- 64

Y15- 128

Y17- 256

Y19- 512

Y21- 1,024

Y23- 2,048

Y25- 4,096

Y27- 8,192

Y29- 16,384

Y31- 32,768

Y33- 65,536



# The Digital Revolution

## **\$2.1 Trillion**

Global spending on technologies and services enabling digital transformation will reach \$2.1 trillion by 2021—double that of 2016, the start of the forecast period.

SOURCE: IDC

## **50 Billion**

The number of Internet-connected things will reach 50 billion by 2020.

SOURCE: CISCO SYSTEMS

## **\$1.4 Billion**

In 2017, the damage caused by cybercrime amounted to \$1.4 billion USD.

SOURCE: STATISTA.COM



# What is disruption?

**Disruption is the radical change to an existing industry or market due to technological innovation.**

A DISRUPTIVE PRODUCT OR SERVICE HELPS TO:

- **CREATE A NEW MARKET** & VALUE

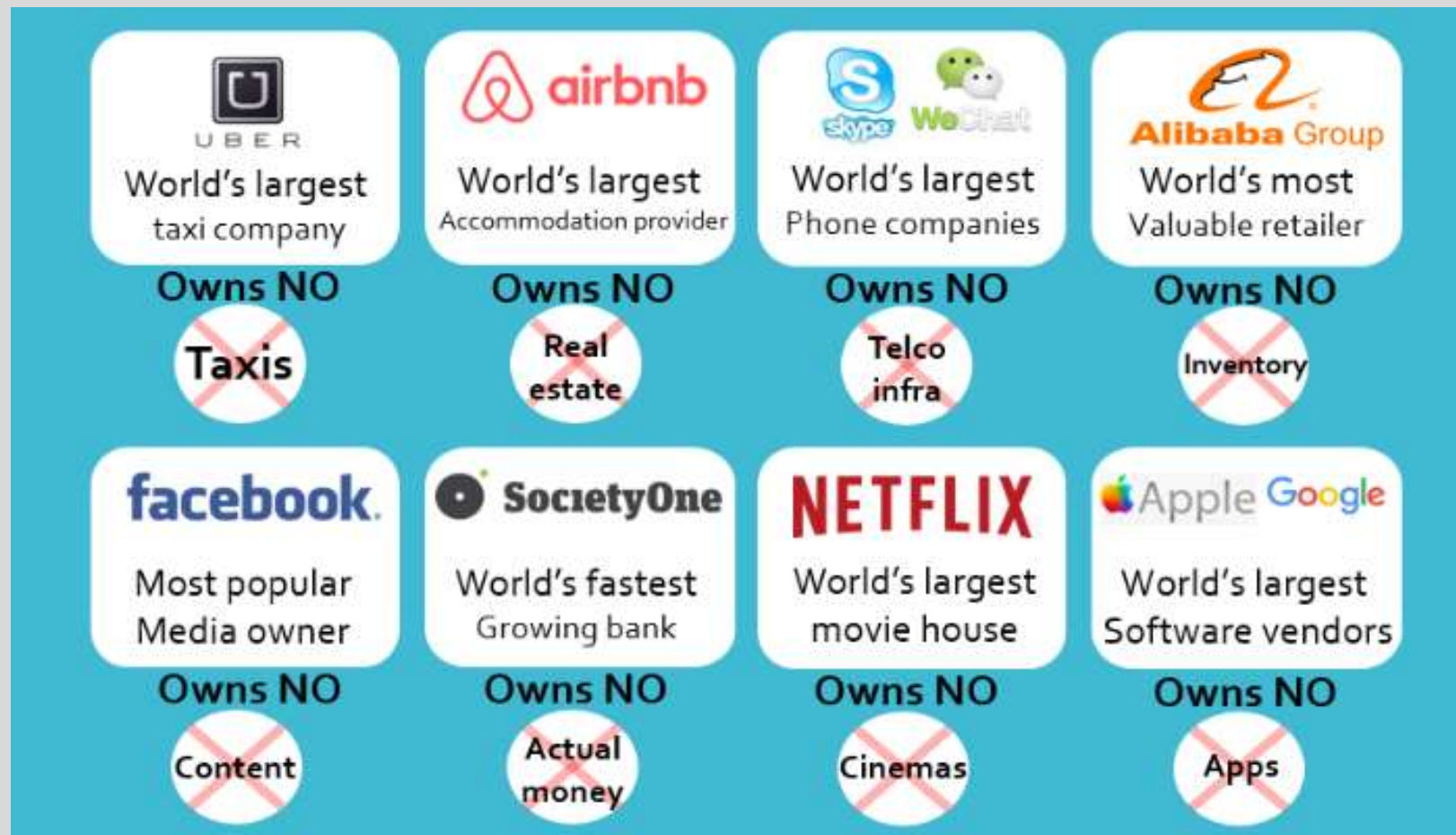
AND

- **SIGNIFICANTLY WEAKEN,**
- **TRANSFORM,** OR
- **DESTROY** AN EXISTING PRODUCT/ MARKET CATEGORY/ INDUSTRY

# Disruption in Action



Blockbuster was an internationally known, brick and mortar movie rental chain. Netflix initially launched as a DVD mail subscription service but shortly after shifted gears to keep with innovation. The company was built for the day the internet would enable consumers to stream movies from their homes without the hassle of late fees. Blockbuster failed to adapt to innovation and closed its doors in 2013.



Graphic Source: bullhorn.com

# Why is the legal industry ripe for disruption?

## ➤ More supply than demand

Class of '19- 6.4% of the law students who graduated in 2019 were unemployed and seeking employment (Statista.com)

Coronavirus layoffs- 60,000 legal industry jobs lost between April and May 2020 (Law.com)

## ➤ Yet, as much as 50% to 80% of the need for legal services across the general population goes unmet

# **Why is the legal industry ripe for disruption?**

## **➤ Law firm inefficiencies**

**2019 Clio Legal Trends Report: Lawyers spend only 2.3 hours a day on billable tasks and collect an average of only 1.6 hours of their billable time.**

# Why is the legal industry ripe for disruption?

➤ **Generally, law firms are late adopters of technology**

➤ **WHY?**

- Billable hour revenue model misaligned with time-saving automation
- Lack of budget
- Conservative / Staid culture
- Most law firms don't have CTOs driving tech strategy

# IS DISRUPTION UPON US?

## Case Study: LegalZoom



- LegalZoom.com, Inc. is an online legal technology company that helps its customers create legal documents without necessarily having to hire a lawyer.
- Available documents include wills and living trusts, business formation documents, copyright registrations, and trademark applications.
- The company also offers attorney referrals and registered agent services.



# LegalZoom: The Numbers

- **Founded in 1999**
- **By 2018, had a \$2 Billion valuation**
- **\$275 Million in annual revenue**



# LegalZoom now generates as much revenue as an AmLaw 200 Firm

- LegalZoom:  
\$275 Million

## 2018 AmLaw Firms

158. Lowenstein Sandler: \$270,593,000

165. Sroock & Strook & Lavan: \$251,000,000

173. Kelley Drye & Warren: \$242,202,000

174. McCarter & English: \$237,183,000

184. Saul Ewing Arnstein & Lehr:  
\$219,324,000

186. Hinshaw & Culbertson: \$217,206,000

## **Companies that use LegalZoom**

- Hulu LLC
- The Black Tux, Inc.
- Cloud Sherpas
- Wundermn, Inc.
- Independent Respiratory Services

## **AmLaw 200 Firms: Most Vulnerable to Disruption?**

*“ALM Intelligence’s Nicholas Bruch points out that only 19 Am Law 100 firms shifted from growing to shrinking or vice versa last year, with more improving their station than not. Meanwhile, 36 firms of the second hundred flipped from growing to shrinking or vice versa last year... and the trend’s increasingly negative. The same can be said of PPeP [profits per equity partner], with 35 Am Law 100 firms seeing a flip, mostly positive, while a whopping 53 second hundred firms experienced a flip, mostly negative.”*

*-The Am Law 200 Is Out — What Does It Tell Us About The Legal Landscape?*

*Above The Law, 3/22/18, Joe Patrice*

**In 2016, 82% of law firms named “competition from non-traditional service providers” to be a permanent change to the legal service market (up from 70% in 2011).**

-2016 Altman Weil Law Firms in Transition Survey)

## **Key Technological Advances**

- Artificial Intelligence
- Internet of Things
- Blockchain Technology
- Augmented reality
- Quantum Computing



## Artificial Intelligence

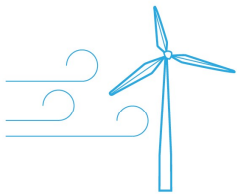
Artificial Intelligence (A.I.) is computer systems able to perform tasks that normally require human intelligence, such as visual perception, speech recognition, decision-making, and translation between languages.



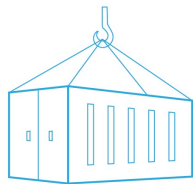
# What is the **Internet of Things**?

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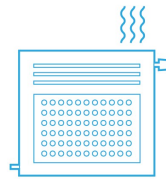
The **Internet of Things (IoT)** is the idea that **any object** can connect to **the Internet**...



**WINDMILLS** that know how much power is needed and when to expect high winds



**SHIPPING CONTAINERS** that record how full they are and where they are



**RADIATORS** that monitor themselves for signs of breakage and malfunction

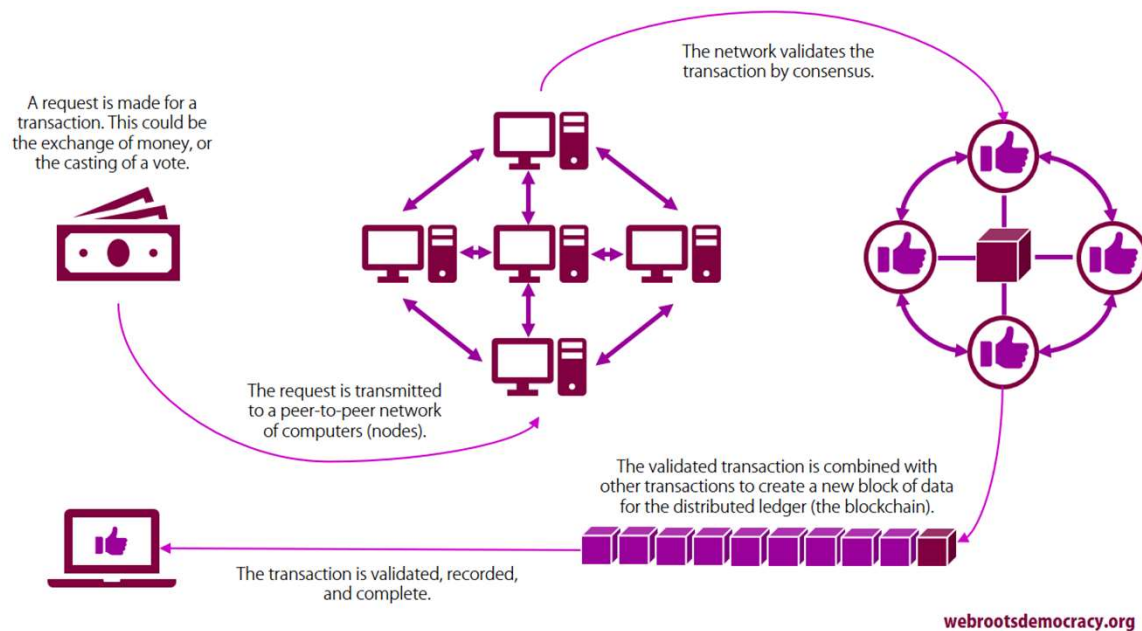
...accessing all the **information** we store online,  
and providing **new data for existing infrastructure**

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Source: [https://www-assets.particle.io/images/what-is-iot-1\\_2800px.png](https://www-assets.particle.io/images/what-is-iot-1_2800px.png)

## Internet of Things

The Internet of things (IoT) describes the network of physical objects—"things"—that are embedded with sensors, software, and other technologies for the purpose of connecting and exchanging data with other devices and systems over the internet.



# Blockchain

In short, a blockchain is a digital record of transactions that is:

- ❑ **DECENTRALIZED**
- ❑ **TRANSPARENT;** and
- ❑ **IMMUTABLE**

# Blockchain in Action

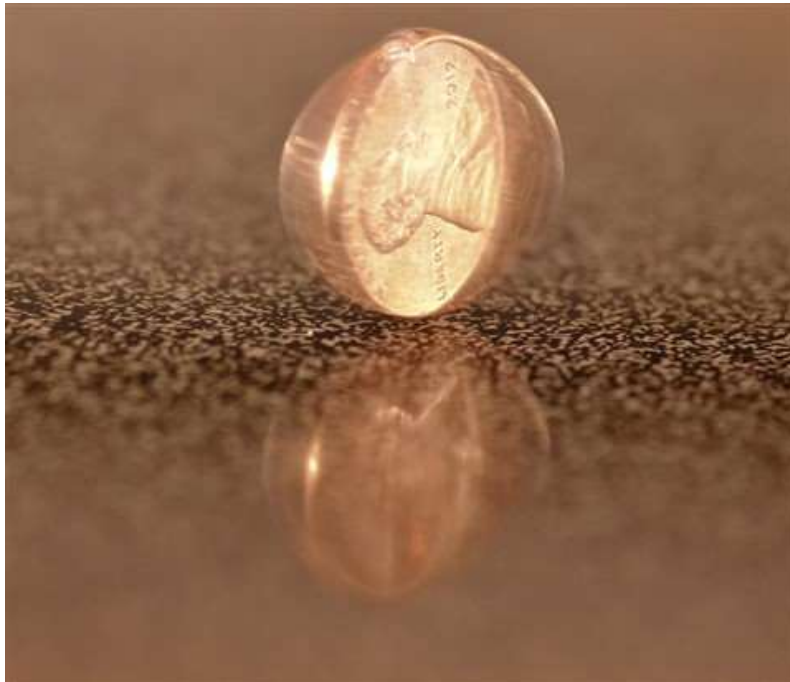
- Smart Contracts
- Diamonds
- Healthcare
- Cryptocurrency



Source: <https://education.viewsonic.com/wp-content/uploads/2017/05/Augmented-reality-in-education-the-why-and-how-of-faster-learning-and-improved-communication-skills-pt.1-The-Why.jpg>

## Augmented Reality

Augmented reality (AR) is an interactive experience of a real-world environment where the objects that reside in the real world are enhanced by computer-generated perceptual information, sometimes across multiple sensory modalities.



Source: <https://www.dpreview.com/challenges/Entry.aspx?ID=832505>

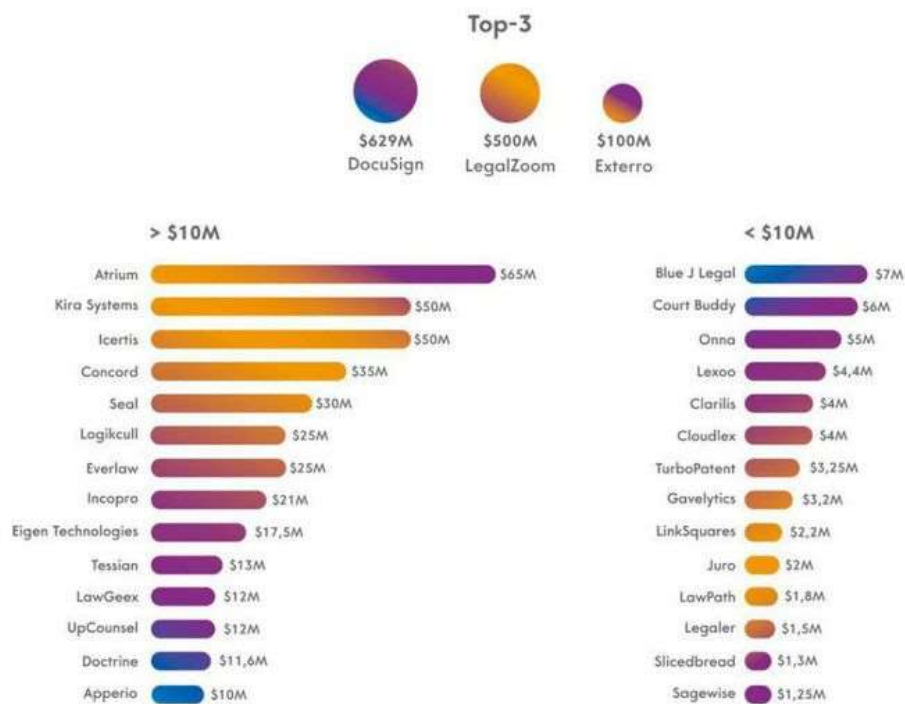
## Quantum Computing

Quantum computing is an area of computing focused on developing computer technology based on the principles of quantum theory, which explains the behavior of energy and material on the atomic and subatomic levels.

Classical computers that we use today can only encode information in bits that take the value of 1 or 0, whereas quantum computers can switch between the two.

# LegalTech: The New Frontier

- LegalTech is defined as organizations that provide software and tech-enabled services to the legal vertical (including law firms and internal counsel) as well as tech-enabled legal services delivered to businesses and consumers.
- Investment in LegalTech is on the rise:
  - 2016: \$224 Million
  - 2017: \$233 Million
  - 2018: \$1.663 Billion (+713% Growth) (includes \$500M investment in LegalZoom)
- The number of legal tech startups listed on AngelList has increased from 15 in 2009 to 400 in 2016 (ABA Report on the Future of Legal Services in the US – 2016)



# 2018 LegalTech Investments

## Top 3

**DocuSign-** Providing e-signature technologies and electronic agreements; 188 countries; 100 million+ users; 2018 IPO \$629 million.

**Legal Zoom-** online legal documentation creation; four million users; Estimated \$2 Billion valuation

**Exterro-** E-Discovery software with impressive client list, including Microsoft, Visa, and Starbucks

Source: Forbes.com (Valentin Pivovarov)



## Top 10 Funding Rounds in Legal Tech Companies, Q3 2019

Company	Country of Headquarters	Description	Funding (USD)
Clio (Series D)	Canada	Legal practice management	\$250,000,000
Icertis (Series E)	U.S.	Contract automation and management	115,000,000
Legalist (Venture)	U.S.	Litigation finance	100,000,000
ContractPodAi (Series B)	U.K.	Contract lifecycle management	55,000,000
Ironclad (Series C)	U.S.	Contract automation and management	50,000,000
Validity Finance (Private Equity)	U.S.	Litigation finance	50,000,000
Notarize (Series B)	U.S.	eNotary app	36,900,000
Smart Protection (Series A)	Spain	IP infringement detection platform	5,680,000
DataGrail (Series A)	U.S.	Privacy compliance platform	5,000,000
DoNotPay (Seed)	U.K.	Parking ticket appeals and small claims filings	4,600,000

Source: Crunchbase

**Bloomberg Law**

# LegalTech at Work

## E-discovery

- \$2.9bn global software market
- Example: Technology Assisted Review (TAR)
  - Employs AI-powered predictive coding to determine responsive electronically stored information (ESI) documents
- All the major vendors, including Reveal, Relativity, Disco, and Everlaw, offer some form of TAR

# LegalTech at Work

## AI & Legal Research

### ➤ Example: Ross Intelligence

- Built on IBM's cognitive computer Watson, ROSS was designed to read and understand language, postulate hypotheses when asked questions, research, and then generate responses (along with references and citations) to back up its conclusions. Ross also learns from experience, gaining speed and knowledge the more you interact with it. ROSS can research and answer questions about case law posed by lawyers in plain English.

### ➤ Example: CaseText with Cara AI

- Upload a brief, complaint, or other document that CARA can use to understand what you are working on.
- Based on what it knows about your matter, CARA A.I. searches Casetext's database for the most relevant results and recommends relevant cases, statutes, briefs, black letter law, and more.

# LegalTech at Work

## Predictive Analytics

### ➤ Example: Lex Machina

➤ Case Assessment and Valuation- Lex Machina provides rapid, granular analysis by venue and judge and can quickly answer targeted questions such as

1. How many cases a party has settled in the past 5 years? or
2. What is the total amount of product liability damages awarded in a particular jurisdiction last year

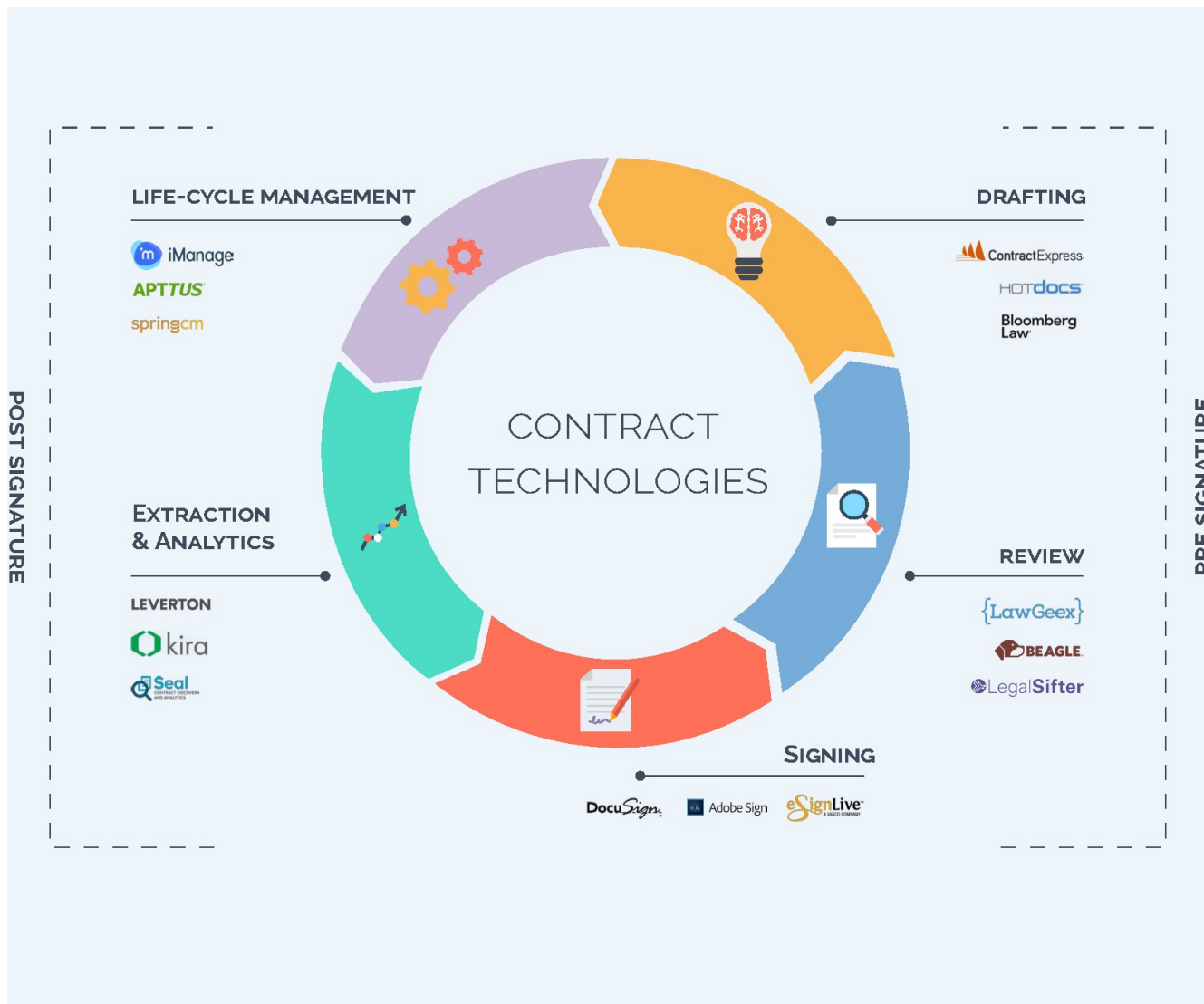
# LegalTech at Work

## Predictive Analytics

### ➤ Example: Lex Machina

➤ Motion Strategy- Provides statistics about the success of a potential motion, tailored to the sample of cases the client cares about.

➤ If the judge has only granted a motion to transfer 3 out of 50 times in the last five years, a client might opt save its money by skipping that motion and investing in a different strategy.



## Contract Technologies

### Life-Cycle Management

#### Drafting

**ContractExpress:** An intelligent document automation system that creates templates and produces documents using the organization's own work

#### Extraction & Analytics

**Kira:** Automates the extraction and analysis of key provisions from across contracts, finds key issues and information in contracts, and identifies deviations from the norm

#### Review

**LawGeex:** Automates the review and approval of everyday, low risk business contracts.

#### Signing

**Adobe Sign:** Manages the complete e-sign process, including routing documents, guiding signatures or approvals, generating notifications, and storing signed documents in a secure environment.

# **Technology and the Evolving Relationship between Lawyers and Clients**

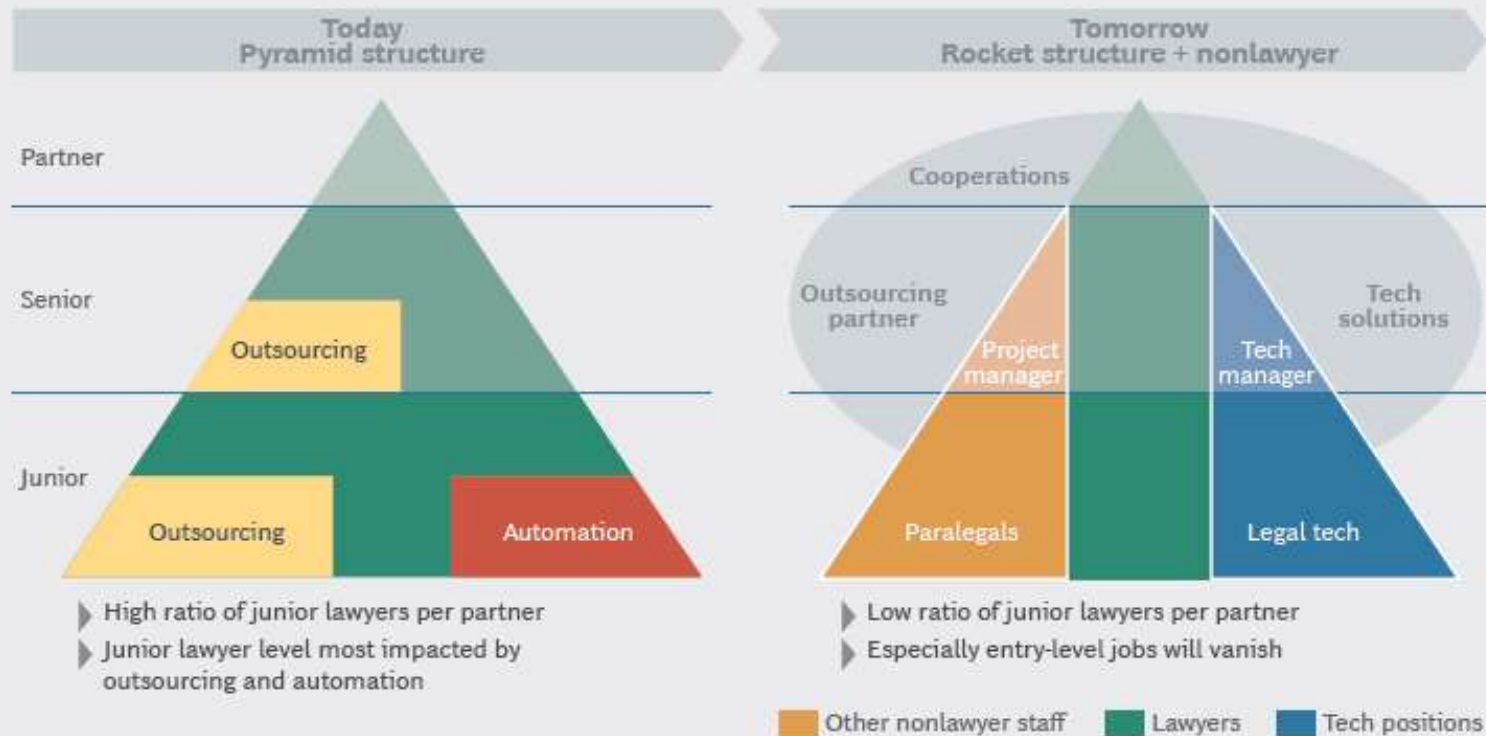
## **Overview**

- Alternative legal business structures
- Commoditization of legal services
- Alternative and fixed-fee arrangements
- Data-driven selection of outside counsel
- Greater Transparency
- Seamless knowledge transfer
- Emergence of new legal issues and risks



# Alternative Business Structure

**EXHIBIT 5 | Adapting big law's business model also includes the traditional pyramid structure**



Source: BCG analysis

# Example: UnitedLex

*Founded in 2006, UnitedLex is an enterprise legal services provider that drives transformation throughout the entire legal ecosystem. The firm's services include digital legal transformation, corporate and commercial services, litigation and regulatory services, intellectual property, and law firm consulting.*

## **The UnitedLex Model**

- Consulting: Helping in-house legal departments develop efficiencies and utilize technology.
- Engineering & Technology: Developing digital solutions to sell to in-house departments.
- Legal Staffing: It supplies lawyers on an as-needed basis to clients ranging in experience and sophistication from highly experienced senior attorneys down to newly minted law grads working remotely out of coffee shops.

# **Alternative Business Structures**

## **4 Types:**

- Legal service entity providing legal services only in which individuals who are not licensed attorneys own a minority interest in the entity;
- Legal service entity providing legal services only in which there are no restrictions on non-lawyer ownership;
- Business entity providing legal and non-legal services in which non-lawyers own a minority interest in the entity; and
- Business entity providing legal and non-legal services in which there are no restrictions on non-lawyer ownership.

# ABS-friendly Regulatory Reform in the United States

## Utah

- In August 2020, the Utah Supreme Court has unanimously approved a slate of reforms that allow for nonlawyer ownership or investment in law firms and fee-sharing with nonlawyers and permit legal services providers to try new ways of serving clients during a two-year pilot period.
- Nontraditional legal services entities will have the opportunity to operate in a regulatory sandbox the state supreme court has established.
- The court also created an Office of Legal Services Innovation that will evaluate and recommend sandbox applicants to the court, as well as oversee the applicants that are approved for entry into the sandbox.

## **Before Utah, only the District of Columbia was the only U.S. jurisdiction to explicitly allow for a limited form of ABS.**

### **DC Bar Rules of Professional Conduct, Rule 5.4:**

*“[a] lawyer may practice law in a partnership or other form of organization in which a financial interest is held or managerial authority is exercised by an individual nonlawyer who performs professional services which assist the organization in providing legal services to clients, but only if: (1) The partnership or organization has as its sole purpose providing legal services to clients; (2) All persons having such managerial authority or holding a financial interest undertake to abide by the [D.C. Bar] Rules of Professional Conduct; (3) The lawyers who have a financial interest or managerial authority in the partnership or organization undertake to be responsible for the nonlawyer participants to the same extent as if nonlawyer participants were lawyers under Rule 5.1; [and] (4) The foregoing conditions are set forth in writing.”*

# Alternative Legal Business Structures Outside the U.S.

**United Kingdom:** The Legal Services Act of 2007 fundamentally changed existing regulations and: (1) permitted inter-disciplinary practice; (2) allowed non-lawyer investment in law firms; (3) sanctioned non-lawyer management and equity ownership of law firms; and (4) Allowed alternative business structure (ABS) firms, which have some form of non-lawyer involvement in the ownership and/or management of the firm.

**Australia:** ABSs, called “incorporated legal practices” (ILP), have been permitted since 2001.

# The Big 4 Sets Sights on Legal Services

- As some states are considering changes to law firm ownership rules, the Big Four (EY, Deloitte, KPMG, and PwC) and other alternative legal service providers are making a play for a larger piece of a market traditionally dominated by law firms.
- EY Aims to Double Legal Services Revenue Over Next 12 Months (Bloomberglaw.com; 8/5/20)
- In July 2020, Deloitte unveiled a new U.S. Legal Business Services practice, which will work with in-house legal offices to streamline functions that track client contracts, invoices, eDiscovery, and other functions.

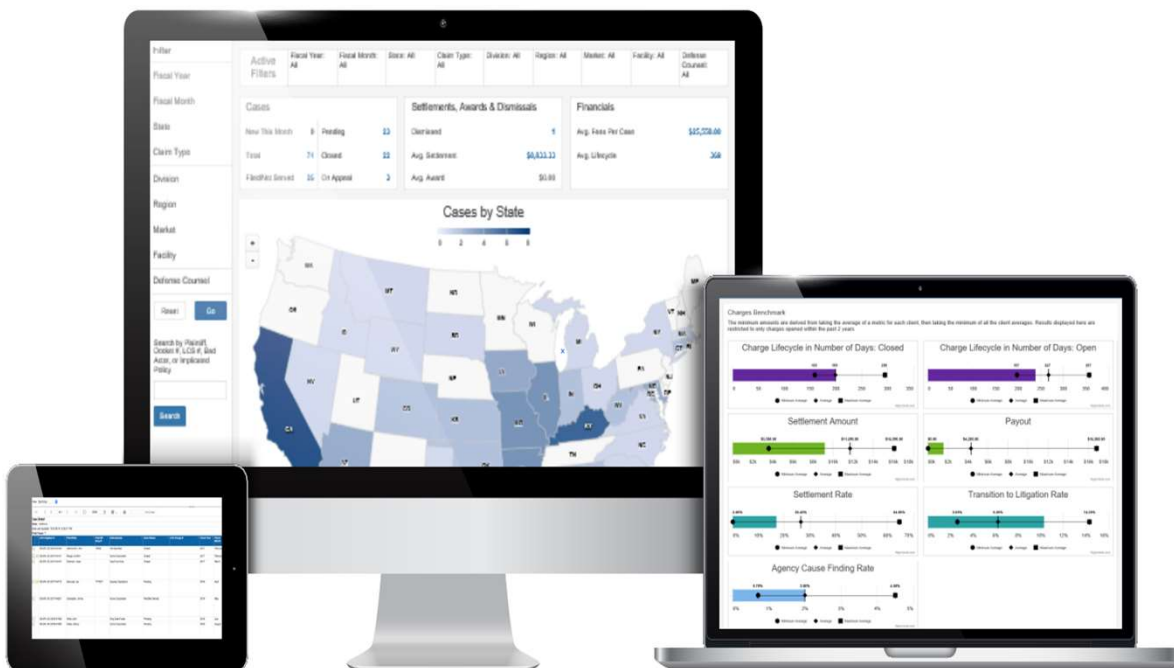
## **The Commoditization of Legal Services**

- Law firms offer propriety technology platforms in addition to traditional legal services.
- Facilitates client collaboration
- Example: Littler CaseSmart



# Littler CaseSmart

- Complies EEOC charges and employment litigation, including information about venue and plaintiff's attorney, what client policy forms the basis of the claim, the alleged bad actor(s), and legal theories underlying the claim(s)
- This information populates a dashboard that allows a client to see their portfolio of charges and litigation to identify potential trigger points so that they may proactively manage possible areas of exposures, address perception or compliance issues, and mitigate the risk of future charges and litigation
- Dedicated suite of alternative-track CaseSmart attorneys



## **More Alternative and Fixed-Fee Arrangements**

- Alternative Fee Arrangements (AFAs) accounted for \$21.1 billion of outside counsel spending in 2015 and are the biggest growth market around. (2016 BTI State of Alternative Fee Arrangements)
- Outside counsel spending under AFAs surged to almost 36% of total spending in 2015, compared to close to 20% in 2012. (2civility.org)
- There is a continuation in this trend because:
  - Efficiency and billable hours are inversely proportional
  - Legal services = Part Manpower + Part Product

# **Predictive Analytics for Selection of Outside Counsel**

- Shift from relationship to data driven selection process
- Predictive analytics can:
  - Identify potential counsel based on chosen criteria, including types of cases, subject matter expertise, location, and more.
  - Review and compare the track record of law firms and individual lawyers.
  - See a firm's client list as well as the outcomes achieved.
  - Highlight potential areas of conflict.
  - Analyze a firm's track record with specific districts and judges.

## Greater Transparency

- **Billing & Process:** In recent years, clients have been more thorough with their billing and spending on legal (and other) services, resulting in a need to be more transparent and efficient.
- **Matter Status:** Case management and online portals that are updated in real-time will provide more transparency to the client on case status.

## **Streamlined Knowledge Transfer**

- Blockchain is an efficient way for online data storage and transfer.
- The implementation of a decentralized network can help to ease access to data without facing any data manipulation issue.



# New Technology Leads to New Legal Issues



## Recent Headlines:

Clearview AI must face Vermont lawsuit over photo collection

(Reuters, 9/11/2020)

Privacy laws might prove to be a blessing in disguise for crypto

(Cointelegraph, 9/13/2020)

Japanese Crypto Exchange Alleges Binance Enabled Thieves to Launder Money

(Beingcrypto, 9/15/2020)

As AI Evolves, No Need For Overhaul of U.S. Patent System ... Yet

(InsideBigData, 9/14/2020)

# Takeaways

- LegalTech solutions that leverage emerging innovations such as AI and blockchain are poised to disrupt the legal industry
- Law departments will rethink the work they outsource to law firms, selection of outside counsel, fee and staffing structures, and knowledge transfer.
- At the same time, law departments and outside counsel will need to collaborate to mitigate risks and tackle litigation arising from the use of new technology.

# QUESTIONS?

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